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JOSEPH F. SPANIOL, JR.  
CLERK

No.

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IN THE SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1986

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LAVAUN CHETISTER, PETITIONER

v.

ANDY DOUGLAS, JUDGE, ET AL., RESPONDENTS

---

PETITION FOR A WRIT OF CERTIORARI TO THE  
UNITED STATES COURT OF APPEALS  
FOR THE SIXTH CIRCUIT

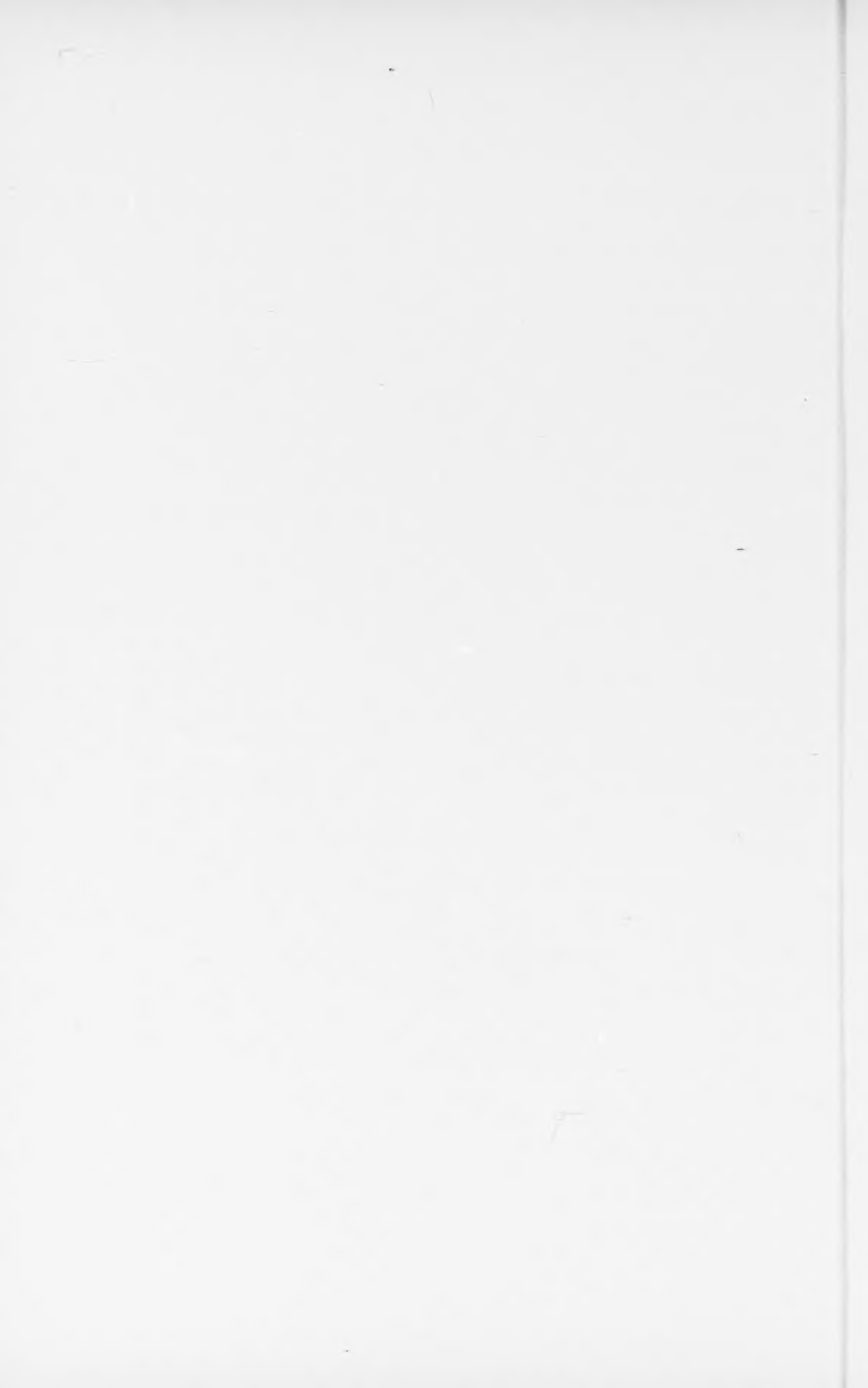
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6397



## QUESTIONS PRESENTED

1. Whether a district court in a §1983 action has original jurisdiction over a constitutional claim where the state's highest court in the state related case refused to entertain the federal claim raised by a plaintiff who utilized required state procedures in a timely and correct manner, or where the procedural posture of the state proceedings had altogether prevented plaintiff from having the constitutional claim determined in the state forum?

2. Whether a district court in a §1983 action has the authority and the duty to order a state court to entertain federal constitutional questions where state law requires the highest state court to entertain constitutional questions, and where the record in the district court uncontrovertedly shows that the state's highest court refused to entertain the federal claim, Pennhurst to the contrary?



## QUESTIONS PRESENTED

3. Whether, as a matter of first focus in a §1983 action upon a motion to dismiss for want of jurisdiction, a district court is required to first determine whether or not the state related decision should be given full faith and credit where plaintiff's complaint, on its face, uncontrovertedly establishes a lack of quality, extensiveness, or fairness of the procedures followed in the state litigation, even where the United States Supreme Court denied review of the state case, so that the district court is precluded from applying the Rooker and Feldman doctrines until it has made a determination that a valid state court decision exists under minimal Fourteenth Amendment due process to which the district court may then apply Rooker, Feldman, res judicata, and collateral estoppel?



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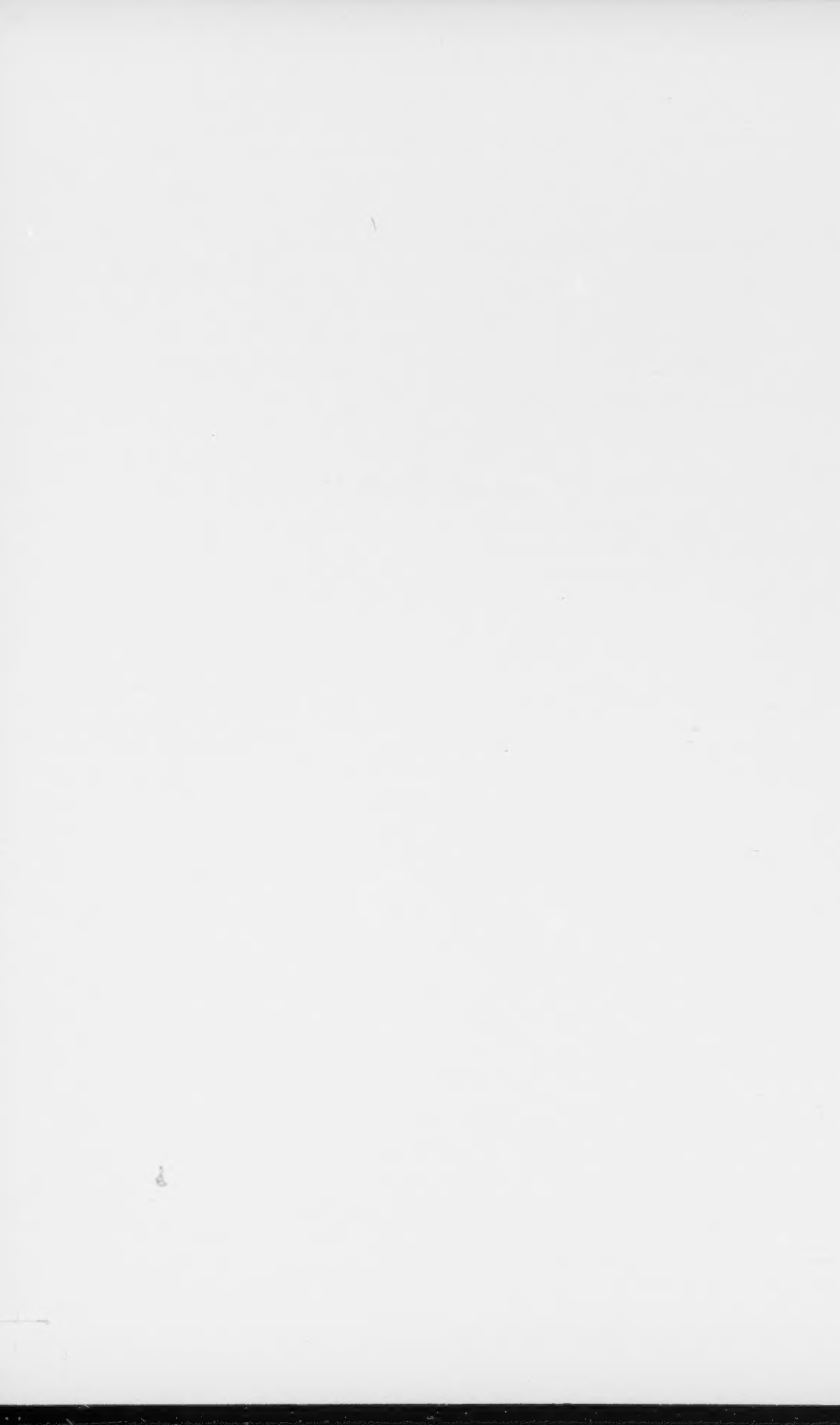


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LIST OF ALL PARTIES & DISCLOSURE

I. One plaintiff-appellant: Lavaun Chetister<sup>\*</sup>

II. Twelve defendant-respondents: 2 groups.<sup>1</sup>

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<sup>1</sup>GROUP 1: Court of Appeals, Sixth App. Dist. of Ohio  
Andy Douglas, J.  
Peter M. Handwork, J.  
Alice Robie Resnick, J.

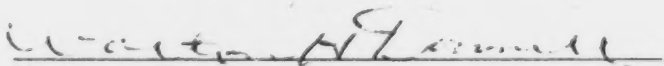
GROUP 2: Supreme Court of Ohio  
Frank D. Celebrezze, C.J.  
William B. Brown, J.  
A. William Sweeney, J.  
Ralph S. Locher, J.  
Robert E. Holmes, J.  
Clifford F. Brown, J.  
James P. Celebrezze, J.

\*DISCLOSURE OF CORPORATE AFFILIATIONS &  
INTERESTS

Plaintiff-appellant makes the following disclosures:

(a) Plaintiff is not a subsidiary or affiliate of a publicly owned corporation.

(b) There is no publicly owned corporation, not a party to the appeal, that has a financial interest in the outcome.

  
Walton H. Donnell  
ATTORNEY FOR PLAINTIFF CHETISTER

April 3, 1987.



IN THE SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1986

No.

LAVAUN CHETISTER, PETITIONER

v.

ANDY DOUGLAS, JUDGE, ET AL., RESPONDENTS

---

PETITION FOR A WRIT OF CERTIORARI TO THE  
UNITED STATES CIRCUIT COURT OF APPEALS  
FOR THE SIXTH CIRCUIT

---

OPINIONS BELOW

Sixth Circuit. The opinion of the court below in this case is not reported; is reproduced infra, App. C, p.24 .

District Court. The opinion of the district court is unreported, in which it dismissed plaintiff's complaint for the reasons that it "lacks subject matter jurisdiction and the complaint fails to state a claim upon which relief may be granted"; reproduced at App. B, p.21 .

JURISDICTION

The judgment of the Sixth Circuit was entered January 13, 1987 (App. A, p.24 ).





The jurisdiction of this Court is invoked under 28 U.S.C. §1254(1).

CONSTITUTIONAL AND STATUTORY PROVISIONS  
INVOLVED

The Fourteenth Amendment to the Constitution of the United States provides in pertinent part:

"[N]or shall any state deprive any person of life, liberty, or property without due process of law; nor deny to any person within its jurisdiction the equal protection of the law."

Ohio Revised Code §2505.29 provides in pertinent part:

"No appeal shall be filed in the supreme court unless such court or a judge thereof grants leave to file such an appeal. SUCH LEAVE NEED NOT BE OBTAINED ... IN CASES INVOLVING QUESTIONS UNDER THE CONSTITUTION OF THE UNITED STATES ...". (Emphasis added.)

42 U.S.C. §1983 provides:

"Civil action for deprivation of rights

"Every person who, under color of any statute, ordinance, regulation, custom, or usage, of any State or Territory or the District of Columbia, subjects or causes to be subjected, any citizen of the United States or other person within the jurisdiction thereof to the deprivation of any rights, privileges, or immunities secured by the Constitution and laws, shall be liable to the party



injured in an action at law, suit in equity, or other proper proceeding for redress."

#### STATEMENT

This case began in the district court upon a filing of a complaint (App. E, p.31) by Lavaun Chetister against ten Ohio judges, the Supreme Court of Ohio and an intermediate state court of appeals, 12 defendants in all. Jurisdiction was found under 28 U.S.C. §§1343 (3), 2201 and 2202. No answers to allegations were filed. Chetister sought declaratory and equitable relief from the two sets of defendants. She alleged Fourteenth Amendment due process violations against both state reviewing courts which occurred during her state action of fraud, entitled Chetister vs. Chetister (App. E, item "54", p. 53).

In her federal complaint, Chetister alleged, with no denials by defendants, that the Supreme Court of Ohio refused to entertain her Fourteenth Amendment and Seventh Amendment constitutional questions (App. E, items "40" and "41", p.47), and see findings



of facts by the court below App. A, p.17), in which the Sixth Circuit Court found that the "Ohio Supreme Court also denied Chetister's subsequent motion for rehearing, which alleged constitutional claims." The court below also found that "Chetister then filed a notice of appeal to the U.S. Supreme Court [who] denied certiorari. Chetister v. Chetister, 469 U.S. 805 (1984)", id at pp. 17-18 ). Lavaun Chetister then filed her federal complaint, for remedy of the constitutional violations, under 42 USC §1983, on December 26, 1984.

On January 3, 1986, the district court granted defendants' motion to dismiss for the reasons that it "lacks subject matter jurisdiction and the complaint fails to state a claim upon which relief may be granted" (App. B, p. 22).

On January 13, 1987, the Court of Appeals for the Sixth Circuit affirmed, stating

"If a competent state court having jurisdiction has rendered judgment and the case has been appealed through the state court system, then the only avenue for the correction of constitutional errors



is the appellate jurisdiction of the Supreme Court. Rooker v. Fidelity Trust Co., 263 U.S. 413 (1923)."  
(Emphasis in original)

#### FOUR REASONS FOR GRANTING THE WRIT

- I. The decision of the Sixth Circuit Court below is in direct conflict (180°) with decisions of Ninth and Eleventh Circuits.

Ninth Circuit: Robinson v. Ariyoshi,  
753 F.2d 1468 (1985).

Jurisdictional Issue as framed in Robinson:

"[Whether a district court and a circuit court can review] constitutional claims which themselves were never decided by a state court, intertwined or otherwise [even though] the Supreme Court [of the United States] has already declined to review the matter?" (Robinson at 1473.)

Jurisdictional Issue as framed below:

"Whether the only avenue for the correction of constitutional errors is to the appellate jurisdiction of the Supreme Court[where] a competent state court has rendered judgment and the case has been appealed through the state court system? (Chetister, App. C at 27, 6th Cir.)

Facts: The same in each case: the Supreme Court of Hawaii refused to entertain a federal constitutional question in the state case; Robinson appealed to Supreme Court of the United States; review denied, McBryde III, 417 U.S. 962, 41 L.Ed.2d 1135, 94 S.Ct. 3164;





in the state-related case below, a fraud action, the Supreme Court of Ohio refused to entertain any of Chetister's federal constitutional questions; she appealed to this Court, review denied, Chetister v. Chetister, 469 U.S. 805 (1984); rehearing denied, 469 U.S. 1967 (1984).

Decisions By The Two Circuit Courts:

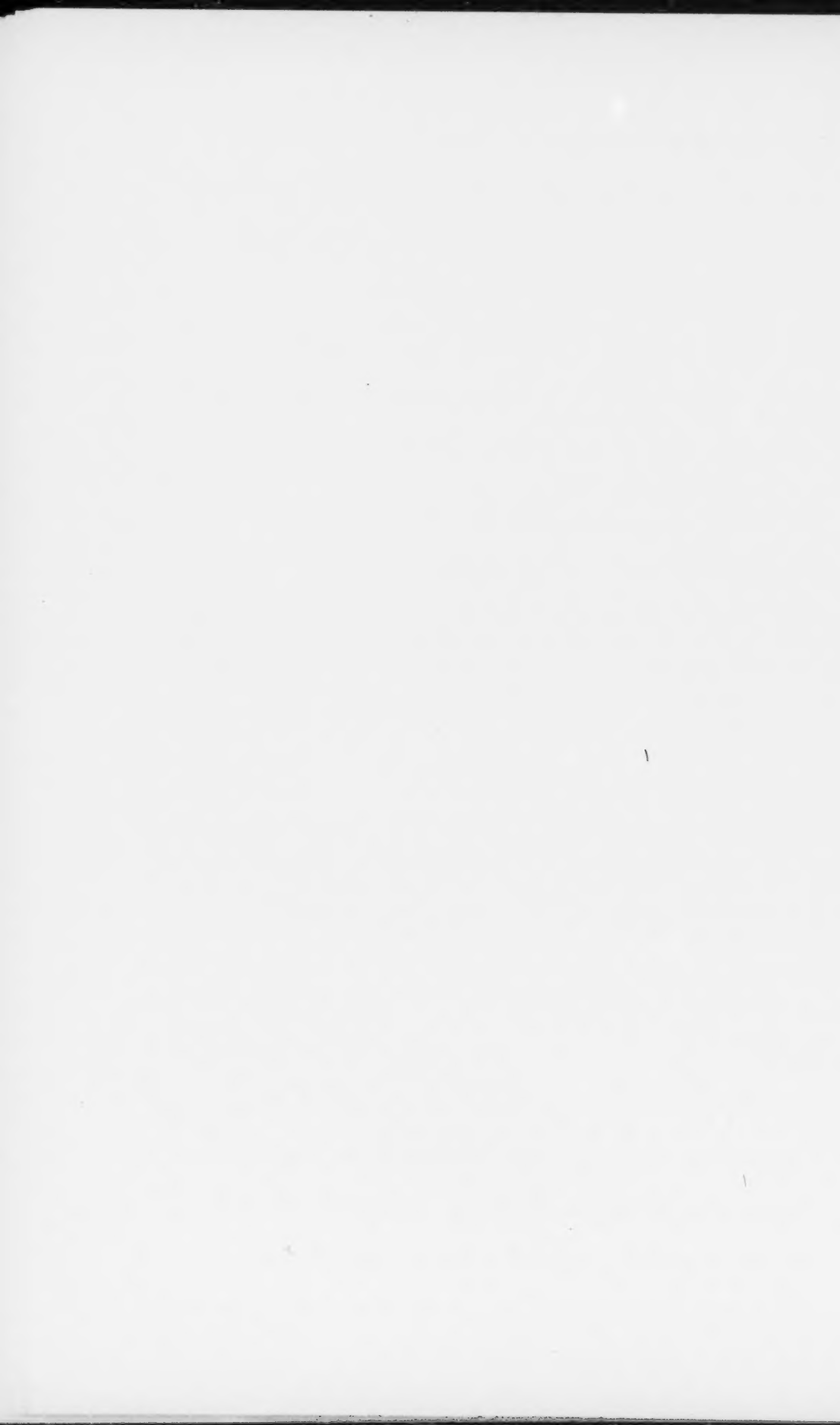
Ninth Circuit: Robinson at 1473:

"Where a state court has refused to entertain federal constitutional claims, a federal court violates the precepts of neither subject matter jurisdiction nor res judicata by hearing those claims."

Sixth Circuit below:

"Because we thus hold that the district court lacked jurisdiction over this case, we decline to consider the other arguments raised on appeal\*\*\*."  
(App. C, p. 28).

Conflict Note: Both circuit courts, the Sixth below and the Ninth, cited and relied upon the very same two cases, yet reached opposite decisions: Rooker v. Fidelity Trust Co., 263 U.S. 413, 68 L.Ed.2d 362, 44 S.Ct. 149 (1923); Dist. of Columbia Ct. of Appeals v. Feldman, 460 U.S. 462, 75 L.Ed. 2d 206, 103 S.Ct. 1303 (1983).



Further Conflict: Sixth with Eleventh.

Eleventh Circuit: Wood v. Orange County,  
715 F.2d 1543 (1983);

Jurisdictional issue framed in Wood:

"We must decide in this interlocutory appeal whether the district court has subject matter jurisdiction over plaintiffs' suit [where plaintiff had no reasonable opportunity to raise her federal claim in state proceedings]." (Wood at 1544,1547).

Facts: in Wood, plaintiffs Beatrice Wood and Sandra Ritter did not have a reasonable opportunity to raise their federal questions in the state proceedings, so that their constitutional claims were never adjudicated by a state court; neither were the federal claims of plaintiff Chetister, below, adjudicated by any state court despite a procedurally-correct attempt to have them entertained by Ohio's highest court.

Decision by the Wood Court at 1547:

"For the foregoing reasons, we hold that the Rooker bar can apply only to issues that the plaintiff had a reasonable opportunity to raise."

Conflict Note: Both circuit courts cited Rooker and Feldman; reached opposite results.



II. The decision of the Sixth Circuit below is in conflict with the law as this Court declared it in *Testa v. Katt*, 330 U.S. 386, 91 L.Ed. 967, 67 S.Ct. 810 (1947), and in *Mondou v. New York, N.H. & H.R.Co.*, 223 U.S. 1, 56 L.Ed. 327, 32 S.Ct. 169. (1912), but it is consistent with this Court's holding in *Pennhurst State School & Hospital v. Halderman*, 465 U.S. 89, 79 L.Ed.2d 641, 100 S.Ct. 1967 (1984).

Facts: in the state related case below. the Supreme Court of Ohio refused to entertain Lavaun Chetister's federal constitutional questions even though state law required the state's highest court to do so, O.R.C. §2505.29 (reproduced supra, p. ), and see App. E, p. .

The action of Ohio's highest court is consistent with *Pennhurst*, supra, which held:

"Eleventh Amendment prohibits federal courts from ordering state officials to conform their conduct to state law."

Looking only at this Court's holding in *Pennhurst*, which both the district court and the Sixth Circuit Court below cited, one would have to conclude that the district court at Toledo and the circuit court at Cincinnati are both on solid ground when they dismissed Chetister's complaint, even



though her complaint, on its face, showed that, and the Sixth Circuit so found (App. A,p. ), Ohio's highest court refused to entertain her federal constitutional questions.

But this is in direct conflict with this Court as it declared federal law to be in both Testa and Mondou. *supra* which held, respectively, that Rhode Island and Connecticut "could not decline to entertain [actions based on federal law]".

Conflict note: Since state law (Ohio Revised Code §2505.29) is identical to the federal law as this Court declared it to be in both Testa and Mondou, is it constitutionally permissible for Ohio (the Supreme Court) and Ohio officials ( the chief justice and his six fellow justices) to hide behind the holding of Pennhurst ("federal courts [cannot order] state officials to conform their conduct to state law"), while sweeping Testa and Mondou under a state rug?

When the Sixth Circuit below found that the state court refused to entertain the federal questions, then, consistent with Testa





and Mondou, the Sixth Circuit should have remanded to the district court below with an order for that court to order the state court (Ohio Supreme Court) to entertain the federal-law questions that plaintiff Lavaun Chetister had presented to, and filed in, that state court. By not doing so, and by affirming the dismissal of Chetister's §1983 complaint, the Sixth Circuit Court's decision came into conflict with the federal law as this Court declared it to be in Testa and Mondou, supra, Pennhurst, notwithstanding.

III. The decision of the Sixth Circuit Court below is in conflict with the law as this Court declared it to be in *Haring v. Proise*, 462 U.S. 306, 76 L.Ed.2d 595, 103 S.Ct. 2368 (1983).

In *Proise*, this Court held, in a unanimous opinion by Justice Marshall, that a conviction in a state court following a guilty plea did not preclude a §1983 action for an alleged Fourth Amendment violation that was never considered in the state proceedings.

Are the relevant facts in the state cases of *Proise* and *Chetister* (below) so different as to make them distinguishable, and, thereby,



not in conflict?

At first blush, yes, but they are not distinguishable. It is true that Proise is a criminal case in the state courts whereas Chetister is civil. But so was the Eleventh Circuit Court case, Wood, supra, which applied res judicata principles as well as Rooker and Feldman. As the Ninth Circuit Court stated in Robinson, supra, at 1472:

"Under the rubric of either 'jurisdiction' or 'res judicata', the crux of the question is whether there has been actual consideration of and a decision on the issue presented."

Accordingly, the Sixth Circuit's decision in Chetister below is in direct conflict with this Court's decision in Haring v. Proise, for the reason that Proise's "Fourth Amendment violation" and Chetister's "Fourteenth Amendment violations" were "never considered in the state proceedings".

IV. The decision of the Sixth Circuit Court below is in conflict with the law as this Court declared it in Kremer v. Chemical Construction Corp., 456 U.S. 461, 72 L.Ed.2d 262, 102 S.Ct.1883 (1982).

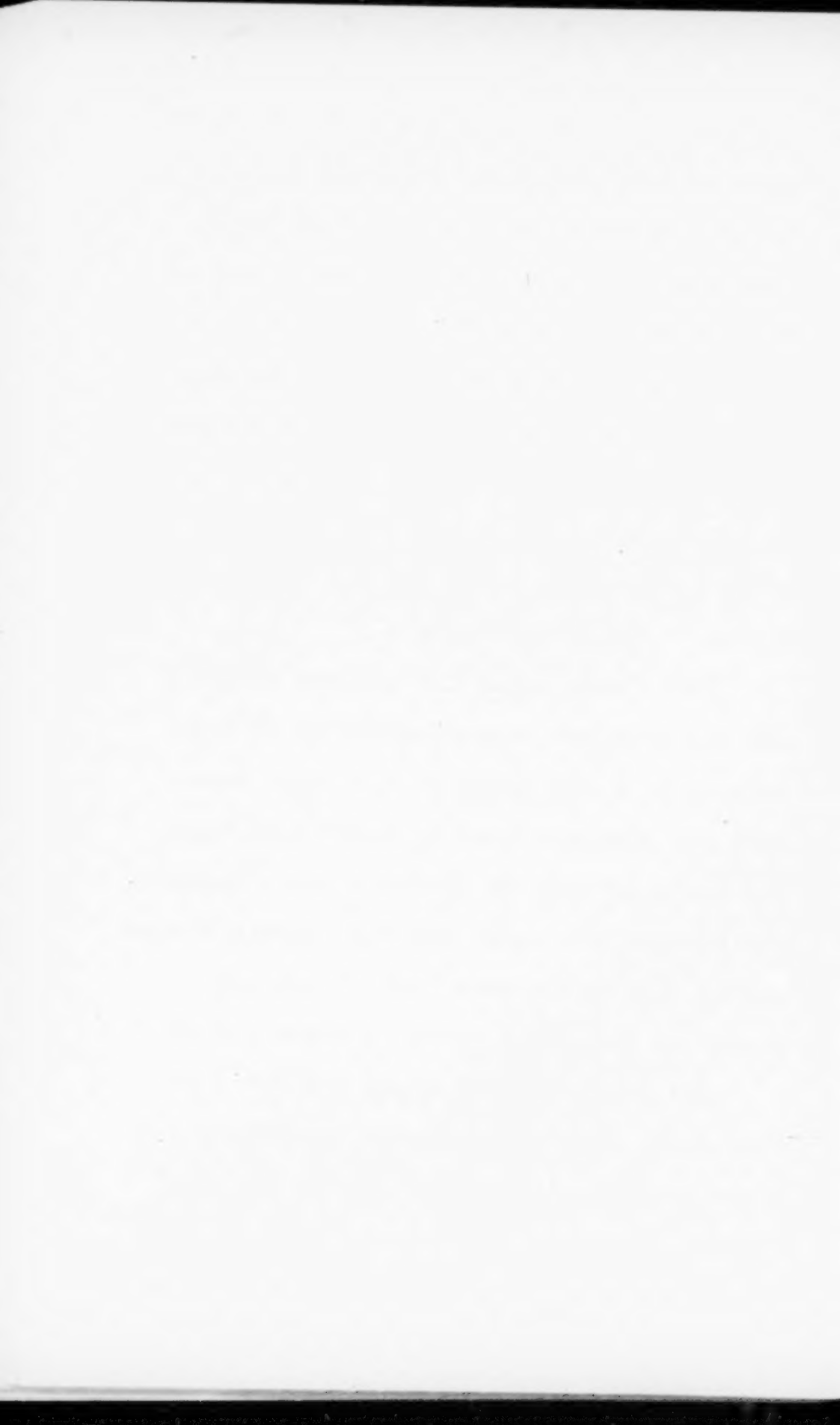


Kremer held: that the district court, under 28 USCS §1728, was required to give full faith and credit to the state court (New York) decision upholding the state administrative agency's rejection of the constitutional claim as meritless where it is found that the procedures in the state proceeding offered a "full and fair opportunity to litigate the claim" and therefore being "sufficient under the Due Process Clause." (Emphasis added.)

This Court, with the busiest calendar and the greatest responsibilities of any federal or state court in the land, took some of its precious time to first find that the state procedures in the state proceeding were "sufficient under the Due Process Clause" before this Court gave "full faith and credit" to the state decision under review.

The Sixth Circuit Court did not first find that Ohio's procedures in Chetister's state case were sufficient under the Due Process Clause as required by Kremer.

The Sixth Circuit could not have-- for



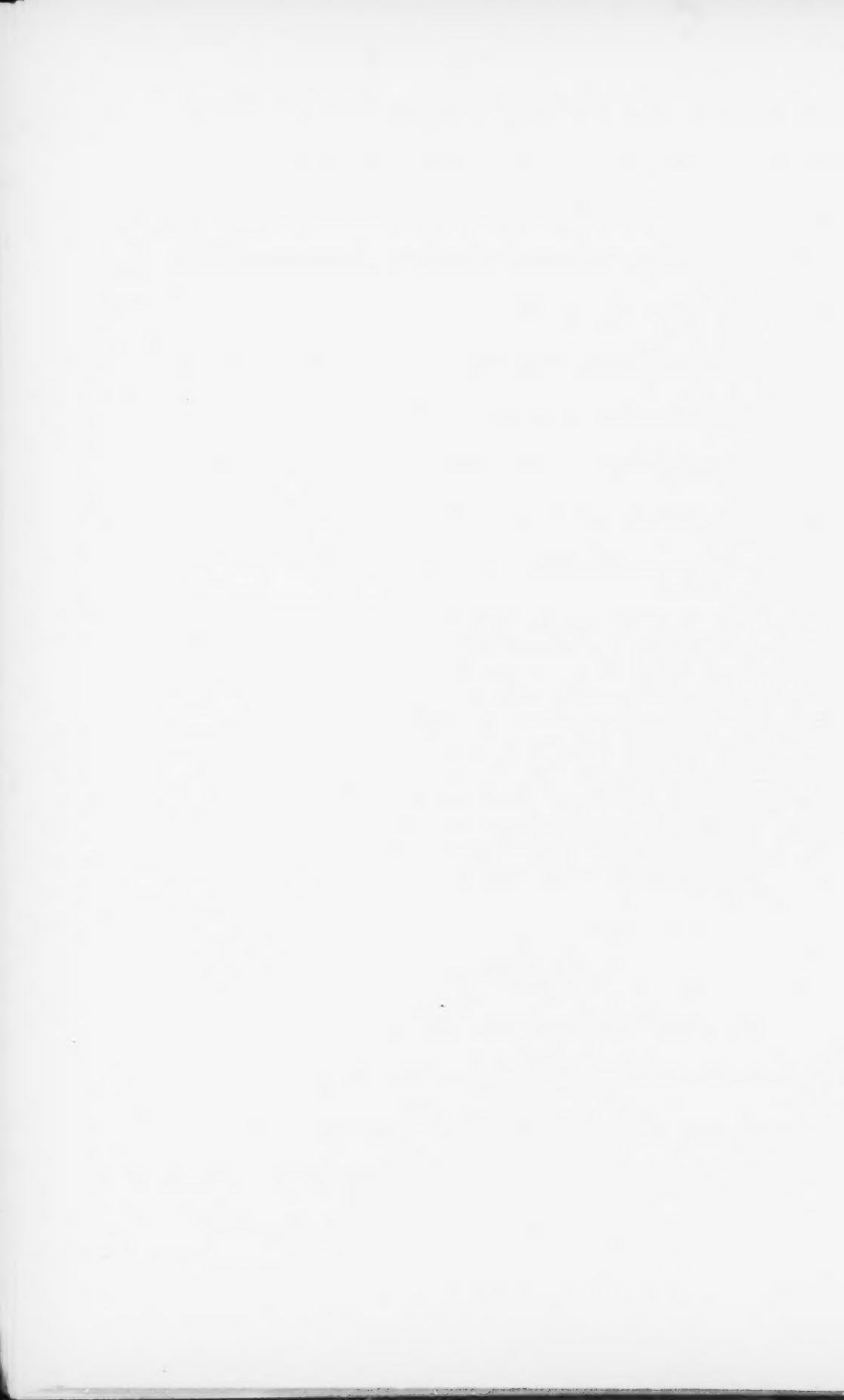
the simple and obvious reason that it already had found that the "Ohio Supreme Court also denied Chetister's subsequent motion for rehearing, which alleged constitutional claims", App. C, p.25 .

Accordingly, the Sixth Circuit's decision below is not only in conflict with this Court's decision in Kremer, but is in blatant violation of the entire important proposition that Kremer stands for:

"The State must, however, satisfy the applicable requirements of the Due Process Clause. A state may not grant preclusive effect in its own courts to a constitutionally infirm judgment, and other state and federal courts are not required to accord full faith and credit to such a judgment.\*\*\*In such a case, there could be no constitutionally recognizable preclusion at all."  
(Kremer at 482,483.)

#### CONCLUSION

For the reasons stated above, appellant Lavaun Chetister submits that this appeal brings before the Court substantial and important jurisdictional questions which require plenary consideration, with briefs on the





merits and oral argument, for their resolution.

Further, this Court itself has recognized that the old Rooker case, good law that it is, nonetheless, has proven troublesome and confusing for the federal and state bars to apply correctly, see this Court's huge footnote in Feldman, supra, at fn 16, covering one entire page of its opinion with the exception of 23 words, mostly at the expense of the Fifth Circuit.

Lastly, more time is not needed to illumine the disharmony and conflict among, not one, but several of the eleven circuit courts and many more district courts. The Chetister case, with its 12 distinguished defendants comprising the entire upper legal system as it now operates in the State of Ohio, involves jurisdictional questions, the settlement of which, are of importance to the public and to Congress, who enacted §1983.

Certainly, looking at the three reasons



why Congress enacted 42 U.S.C. § 1983, Congress did not intend for robust state plaintiffs to ride into a federal district court, only to be erroneously turned back, riding away like some impotent Don Quixote on a lame horse and armed with only a dull spear, all because lower federal courts are in great conflict, unevenly applying Rooker and Feldman.

Respectively submitted,

Walton H. Donnell  
Walton H. Donnell  
ATTORNEY FOR APPELLANT

April 6. 1987.



APPENDIX "A"

F I L E D  
JAN 13 1987  
JOHN P. HEHMAN, Clerk

NO. 86-3057

UNITED STATES COURT OF APPEALS  
FOR THE SIXTH CIRCUIT

LAVAUN CHETISTER,	)	NOT RECOMMENDED
	)	FOR FULL-TEXT
Plaintiff-Appellant,	)	PUBLICATION
	)	Sixth Circuit
v.	)	Rule 24 limits
	)	citation to
ANDY DOUGLAS, PETER M.	)	specific sit-
HANDWORK, ALICE ROBIE	)	uations. Please
RESNICK, COURT OF APPEALS,	)	see Rule 24
SIXTH APPELLATE DISTRICT,	)	before citing
SUPREME COURT OF OHIO,	)	in a proceed-
FRANK D. CELEBREZZE,	)	ing in a court
WILLIAM B. BROWN, A.	)	in the Sixth
WILLIAM SWEENEY, RALPH S.	)	Circuit. If
LOCHER, ROBERT E. HOLMES,	)	cited, a copy
CLIFFORD F. BROWN, JAMES	)	must be served
P. CELEBREZZE,	)	on other par-
Individually and	)	ties and the
Officially,	)	Court.
	)	This notice
Defendants-Appellees.	)	is to be
	)	<u>prominently</u>
	)	displayed if
	)	this decision
	)	is reproduced.
	)	
	)	On appeal
	)	from the United
	)	States Dis-
	)	trict Court
	)	for the Nor-
	)	thern District
	)	of Ohio.
	)	



Before:           WELLFORD and GUY, Circuit  
                 Judges; and PECK, Senior  
                 Circuit Judge.

PER CURIAM.   Plaintiff-appellant

Chetister filed an action in the Lucas County (Ohio) Common Pleas Court alleging fraud in a real estate transaction. The court directed a verdict against her. She timely appealed the decision to the Court of Appeals for the Sixth District of Ohio which affirmed the trial court's decision. Chetister then filed a notice of appeal with the Ohio Supreme Court. Because the notice did not raise constitutional issues, it was treated as a motion to certify, which was denied. The Ohio Supreme Court also denied Chetister's subsequent motion for rehearing, which alleged constitutional claims. Chetister then filed a notice of appeal to the U.S. Supreme Court. The U.S. Supreme Court dismissed the appeal for want of jurisdiction, and treating the appeal as a petition for certiorari, denied





certiorari. Chetister v. Chetister, 469 U.S. 805 (1984). Chetister's subsequent motion for rehearing was also denied. Chetister v. Chetister, 469 U.S. 1067 (1984).

NO. 86-3057

2

Chetister filed a complaint in the United States District Court for the Northern District of Ohio against the ten Ohio state court justices and judges who considered her case. The complaint sought a declaratory judgment that certain Ohio Revised Code sections, as applied by defendants-appellees, had violated Chetister's rights arising under 42 U.S.C. § 1983 and the First and Fourteenth Amendments. Defendants-appellees filed a motion to dismiss for lack of jurisdiction over the subject matter, Fed. R. Civ. P. 12(b)(1), and for failure to state a claim upon which relief can be granted, Fed. R. Civ. P. 12(b)(6). The district court dismissed the complaint. Chetister timely



filed this appeal.

We have no difficulty in concluding that the district court acted properly in dismissing Chetister's complaint. We wholeheartedly agree with the observations of the magistrate, whose views were adopted by the district court, that:

[p]laintiff, by arguing that defendants unconstitutionally applied the Ohio statutes in question, is in reality seeking review of a state court by a federal district court. District of Columbia Court of Appeals v. Feldman, 460 U.S. 462 (1983). The Supreme Court held in Feldman that United States district courts 'do not have jurisdiction . . . over challenges to state court decisions in particular cases arising out of judicial proceedings even if those challenges allege that the state court's action was unconstitutional.' Id. at 486. If a competent state court having jurisdiction has rendered judgment and the case has been appealed through the state court system, then the only avenue for the correction of constitutional errors is to the appellate jurisdiction of the Supreme Court. Rooker v. Fidelity Trust Co., 263 U.S. 413 (1923).

Jt. App. p. 36.

On authority of Feldman, supra, this



court has also previously made clear that the district court lacks jurisdiction to review a decision of the Ohio Supreme Court even if the appellant raises federal constitutional issues. Johns v. The Supreme Court of Ohio, 753 F.2d 524, 527 (6th Cir.), cert. denied, 106 S.Ct. 79 (1985). Because we thus hold that the district court lacked jurisdiction over this case, we decline to consider the other arguments raised on appeal (notably that the Eleventh Amendment bars Chetister's claim, see Pennhurst State School & Hospital v. Halderman, 465 U.S. 89 (1984)).

NO. 86-3057

3

The judgment of the district court is hereby affirmed.

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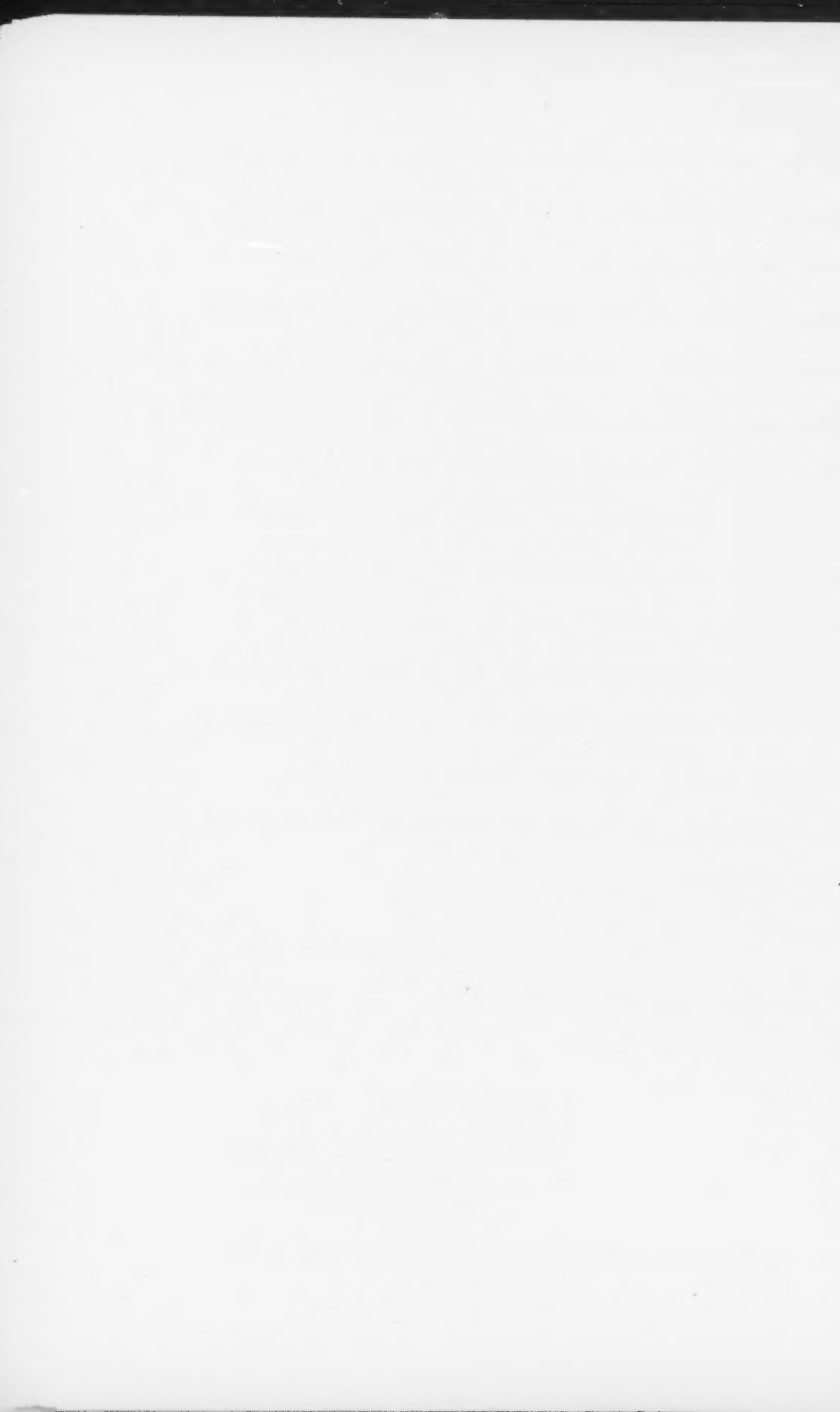
Attest:

JOHN P. HEHMAN, Clerk

By s/s

Deputy Clerk

ISSUED AS MANDATE: February 16, 1987  
COSTS: None



APPENDIX "B"

FILED  
1986 JAN -3 AM 9:10  
CLERK  
U.S. DISTRICT COURT  
NORTHERN DISTRICT  
TOLEDO, OHIO

IN THE UNITED STATES DISTRICT COURT  
FOR THE NOTHERN DISTRICT OF OHIO  
WESTERN DIVISION

Lavaun Chetister,

Civil No. C 84-8077

Plaintiff

vs.

Andy Douglas, et al.,

ORDER

Defendants

POTTER, J.:

This cause was transferred to the United States Magistrate for a Report and and Recommendation. Magistrate James G. Carr filed his Report and Recommendation on September 19, 1985.

The Court has received plaintiff's objections to said Report and Recommendation. Upon a review of the Magistrate's Report and Recommendation, and said objections, this Court finds that the objections are fully answered by the Magistrate's Report and Recommendation.





The Court finds that the objections are not well taken. Plaintiff's complaint will be dismissed for the reasons that this Court lacks subject matter jurisdiction and the complaint fails to state a claim upon which relief may be granted. See Fed.R.Civ.P.12(b)(1) and 12(b)(6).

THEREFORE, for the foregoing reasons, good cause appearing, it is

ORDERED that said Report and Recommendation be, and the same hereby is, adopted, as the Order of this Court in this cause; and it is

FURTHER ORDERED that defendant's motion to dismiss be, and the same hereby is, GRANTED.

IT IS SO ORDERED.

s/s  
United States District Judge

I hereby certify that this instrument is a true and correct copy of the original on file in my office.



Attest: James S. Gallas, Clerk  
U.S. District Court  
Northern Dist. of Ohio

BY: s/s \_\_\_\_\_  
Deputy Clerk



APPENDIX "C"

F I L E D  
JAN 13 1987

JOHN P. HEHMAN, Clerk

NO. 86-3057

UNITED STATES COURT OF APPEALS  
FOR THE SIXTH CIRCUIT

LAVAUN CHETISTER,

Plaintiff-Appellant,

v.

ANDY DOUGLAS, PETER M.  
HANDWORK, ALICE ROBIE  
RESNICK, COURT OF APPEALS,  
SIXTH APPELLATE DISTRICT,  
SUPREME COURT OF OHIO,  
FRANK D. CELEBREZZE,  
WILLIAM B. BROWN, A.  
WILLIAM SWEENEY, RALPH S.  
LOCHER, ROBERT E. HOLMES,  
CLIFFORD F. BROWN, JAMES  
P. CELEBREZZE,  
Individually and  
Officially,

Defendants-Appellees.

) NOT RECOMMENDED  
) FOR FULL-TEXT  
) PUBLICATION  
) Sixth Circuit  
) Rule 24 limits  
) citation to  
) specific sit-  
) uations. Please  
) see Rule 24  
) before citing  
) in a proceed-  
) ing in a court  
) in the Sixth  
) Circuit. If  
) cited, a copy  
) must be served  
) on other par-  
) ties and the  
) Court.  
) This notice  
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) On appeal  
) from the United  
) States Dis-  
) trict Court  
) for the Nor-  
) thern District  
) of Ohio.  
)



Before:           WELLFORD and GUY, Circuit  
                  Judges; and PECK, Senior  
                  Circuit Judge.

PER CURIAM. Plaintiff-appellant Chetister filed an action in the Lucas County (Ohio) Common Pleas Court alleging fraud in a real estate transaction. The court directed a verdict against her. She timely appealed the decision to the Court of Appeals for the Sixth District of Ohio which affirmed the trial court's decision. Chetister then filed a notice of appeal with the Ohio Supreme Court. Because the notice did not raise constitutional issues, it was treated as a motion to certify, which was denied. The Ohio Supreme Court also denied Chetister's subsequent motion for rehearing, which alleged constitutional claims. Chetister then filed a notice of appeal to the U.S. Supreme Court. The U.S. Supreme Court dismissed the appeal for want of jurisdiction, and treating the appeal as a petition for certiorari, denied





certiorari. Chetister v. Chetister, 469 U.S. 805 (1984). Chetister's subsequent motion for rehearing was also denied. Chetister v. Chetister, 469 U.S. 1067 (1984).

NO. 86-3057

2

Chetister filed a complaint in the United States District Court for the Northern District of Ohio against the ten Ohio state court justices and judges who considered her case. The complaint sought a declaratory judgment that certain Ohio Revised Code sections, as applied by defendants-appellees, had violated Chetister's rights arising under 42 U.S.C. § 1983 and the First and Fourteenth Amendments. Defendants-appellees filed a motion to dismiss for lack of jurisdiction over the subject matter, Fed. R. Civ. P. 12(b)(1), and for failure to state a claim upon which relief can be granted, Fed. R. Civ. P. 12(b)(6). The district court dismissed the complaint. Chetister timely



filed this appeal.

We have no difficulty in concluding that the district court acted properly in dismissing Chetister's complaint. We wholeheartedly agree with the observations of the magistrate, whose views were adopted by the district court, that:

[p]laintiff, by arguing that defendants unconstitutionally applied the Ohio statutes in question, is in reality seeking review of a state court by a federal district court. District of Columbia Court of Appeals v. Feldman, 460 U.S. 462 (1983). The Supreme Court held in Feldman that United States district courts 'do not have jurisdiction . . . over challenges to state court decisions in particular cases arising out of judicial proceedings even if those challenges allege that the state court's action was unconstitutional.' Id. at 486. If a competent state court having jurisdiction has rendered judgment and the case has been appealed through the state court system, then the only avenue for the correction of constitutional errors is to the appellate jurisdiction of the Supreme Court. Rooker v. Fidelity Trust Co., 263 U.S. 413 (1923).

3t. App. p. 36.

On authority of Feldman, supra, this



court has also previously made clear that the district court lacks jurisdiction to review a decision of the Ohio Supreme Court even if the appellant raises federal constitutional issues. Johns v. The Supreme Court of Ohio, 753 F.2d 524, 527 (6th Cir.), cert. denied, 106 S.Ct. 79 (1985). Because we thus hold that the district court lacked jurisdiction over this case, we decline to consider the other arguments raised on appeal (notably that the Eleventh Amendment bars Chetister's claim, see Pennhurst State School & Hospital v. Halderman, 465 U.S. 89 (1984)).

NO. 86-3057

3

The judgment of the district court is hereby affirmed.

A TRUE COPY  
Attest:  
JOHN P. HEHMAN, Clerk  
By s/s  
Deputy Clerk

ISSUED AS MANDATE: February 16, 1987  
COSTS: None



APPENDIX "D"

FILED  
FEB 27 1987  
JOHN P. HEHMAN, Clerk

NO. 86-3057

IN THE UNITED STATES COURT OF APPEALS  
FOR THE SIXTH CIRCUIT

Lavaun Chetister, :  
Plaintiff-Appellant, :  
v. : NOTICE OF  
Andy Douglas, Judge, et al., : APPEAL TO  
Defendants-Appellees. : THE SUPREME  
COURT OF THE  
UNITED STATES

Notice is hereby given that Lavaun Chetister, the appellant in this case, hereby petitions the Supreme Court of the United States for a writ of certiorari to review the judgment of the United States Court of Appeals for the Sixth Circuit dated January 13, 1987, affirming the judgment of the United States District Court for the District of Northern Ohio, Western Division dated January 3, 1986, which is in direct conflict with a decision of the Eleventh Circuit Court of Appeals on one federal question, and in direct conflict with the Supreme Court





of the United States on another federal question.

This Petition for writ of certiorari is taken pursuant to 28 U.S.C. § 1254(1).

s/s

Walton H. Donnell  
ATTORNEY FOR LAVAUN CHETISTER  
742 Otsego Pike  
P.O. Box 733  
Bowling Green, Ohio 43402  
Telephone: [419] 278-2483

CERTIFICATION

I hereby certify that three (3) copies of the foregoing Notice Of Appeal To The Supreme Court Of The United States were sent by ordinary U.S. Mail postage prepaid this 25th day of February, 1987, to Dianne Goss Paynter, Assistant Attorney General, 30 East Broad Street, 15th Floor, Columbus, Ohio 43266-0410.

s/s

Walton H. Donnell



APPENDIX "E"

UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF OHIO, WESTERN DIVISION

Lavaun Chetister : No. C 84-8077  
28180 Oregon Road, Lot 57 :  
Perrysburg, OH 43551, : JUDGE JOHN  
W. POTTER

Plaintiff, :

-vs- :

Complaint

Andy Douglas, Judge :  
Court of Appeals, :  
Sixth Appellate District :  
Jackson at Michigan Streets :  
Toledo, OH 43624, :

and :

Peter M. Handwork, Judge :  
Court of Appeals, :  
Sixth Appellate District :  
Jackson at Michigan Streets :  
Toledo, OH 43624, :

and :

Alice Robie Resnick, Judge :  
Court of Appeals, :  
Sixth Appellate District :  
Jackson at Michigan Streets :  
Toledo, OH 43624, :

and :

Court of Appeals, :  
Sixth Appellate District :  
Jackson at Michigan Streets :  
Toledo, OH 43624, :

and :

FILED  
1984 DEC 26 PM 1:57  
CLERK  
U.S. DISTRICT COURT  
NORTHERN DISTRICT  
TOLEDO, OHIO



Supreme Court of Ohio :  
State Office Tower, 3rd floor  
30 East Broad Street :  
Columbus, OH 43215, :

and :

Frank D. Celebrezze, Chief Justice :  
Supreme Court of Ohio :  
State Office Tower, 3rd floor :  
30 East Broad Street :  
Columbus, OH 43215, :

and :

William B. Brown, Justice :  
Supreme Court of Ohio :  
State Office Tower, 3rd floor :  
30 East Broad Street :  
Columbus, OH 43215, :

and :

A. William Sweeney, Justice :  
Supreme Court of Ohio :  
State Office Tower, 3rd floor :  
30 East Broad Street :  
Columbus, OH 43215, :

and :

Ralph S. Locher, Justice :  
Supreme Court of Ohio :  
State Office Tower, 3rd floor :  
30 East Broad Street :  
Columbus, OH 43215, :

and :

Robert E. Holmes, Justice :  
Supreme Court of Ohio :  
State Office Tower, 3rd floor :  
30 East Broad Street :  
Columbus, OH 43215, :



and :

Clifford F. Brown, Justice :  
Ohio Supreme Court :  
State Office Tower, 3rd floor :  
30 East Broad Street :  
Columbus, OH 43215, :

and :

James P. Celebrezze, Justice :  
Supreme Court of Ohio :  
State Office Building, 3rd floor: :  
30 East Broad Street :  
Columbus, OH 43215, :

Defendants. :

## COMPLAINT

### I. STATEMENT AS TO JURISDICTION

1. This is a civil action seeking declaratory and equitable relief. Jurisdiction of the Court is invoked under 28 USC §§ 1343(3), 2201 and 2202. This action arises under the United States Constitution, particularly under the provisions of the First and Fourteenth Amendments and under federal law, particularly under 42 USC §1983. This action seeks, inter alia, a declaratory judgment declaring repugnant to the Constitution of the United States a certain pro-





cedural rule of the State of Ohio as applied to plaintiff, namely Appellate Rule 12(A)-- Determination And Judgment On Appeal-- where plaintiff was denied a meaningful opportunity, appropriate to the nature of her case, to petition the government of Ohio for a redress of her grievance (a directed verdict contrary to law by an Ohio trial court) when, during her attempt to use the state-created liberty interest in Ohio Revised Code 2505.03 (Trial court's final order may be appealed to court of appeals), said court of appeals rendered its decision upon an issue neither raised by the trial court nor briefed on appeal and without first giving the parties notice of, and an opportunity to, brief that issue, denying plaintiff due process in taking of her liberty interest ( to petition the government for a redress of grievances).

## II. VENUE

2. Venue is proper pursuant to 28



USC § 1391(b).

### III. PARTIES

3. Plaintiff is a resident of the State of Ohio, Northern District, Western Division and a citizen of the United States.

4. All of plaintiff's activities are fully within the protection of the Constitution of the United States and reflect the exercise of the fundamental right to petition for a redress of grievances to the government of Ohio. Plaintiff performed the activity of petitioning for a redress of her grievances and desires the ability to engage in said activity on the assumption that her rights under the Constitution of a participant in such activity will be scrupulously and continuously protected by the defendants in their official capacities as judges, justices and courts of the judicial government of Ohio.

5. Defendant Andy Douglas, at all



times mentioned herein, was one of three judges participating in a decision, hereinafter complained of, while sitting as a Judge of the Court of Appeals, Sixth Appellate District, Ohio.

6. Defendant Peter M. Handwork, at all times herein mentioned, was one of three judges participating in a decision, hereinafter complained of, while sitting as a Judge of the Court of Appeals, Sixth Appellate District, Ohio.

7. Defendant Alice Robie Resnick, at all times herein mentioned, was one of three judges participating in a decision, hereinafter complained of, while sitting as a Judge of the Court of Appeals, Sixth Appellate District, Ohio.

8. Defendant Court of Appeals, Sixth District of Ohio, at all times herein mentioned, was one of twelve appellate courts in the State of Ohio, with the responsibility of hearing appeals as of right from, but not limited to, common



pleas courts of Lucas County, Ohio.

[Districts: O.R.C. 2501.01(F).]

9. Defendants are, on information, knowledge and belief, residents of the State of Ohio and are citizens of the United States. Moreover, said defendants reside in the Northern District of Ohio, Western Division as defined by 28 USC § 115.

10. Defendant Supreme Court of Ohio, at all times herein mentioned, was and is the highest state court in the State of Ohio, sitting at Columbus, Ohio, with the statutory power to grant or refuse leave to file an appeal to the supreme court, exceptions (ORC 2505.29), see Exhibit "A", attached hereto and made a part hereof. (Jurisdiction: Sec. 2, Art. IV, Ohio Constitution.)

11. Defendant Frank D. Celebrezze, at all times herein mentioned, was and is the Chief Justice of the Supreme Court of Ohio.

12. Defendant William B. Brown, at





all times herein mentioned, was and is a Justice of the Supreme Court of Ohio.

13. Defendant A. William Sweeney, at all times herein mentioned, was and is a Justice of the Supreme Court of Ohio.

14. Defendant Ralph S. Locher, at all times herein mentioned, was and is a Justice of the Supreme Court of Ohio.

15. Defendant Robert E. Holmes, at all times hereinafter mentioned, was and is a Justice of the Supreme Court of Ohio.

16. Defendant Clifford F. Brown, at all times herein mentioned, was and is a Justice of the Supreme Court of Ohio.

17. Defendant James P. Celebrezze, at all times herein mentioned, was and is a Justice of the Supreme Court of Ohio.

18. On information, knowledge and belief all said defendants reside in the State of Ohio and are citizens of the United States.

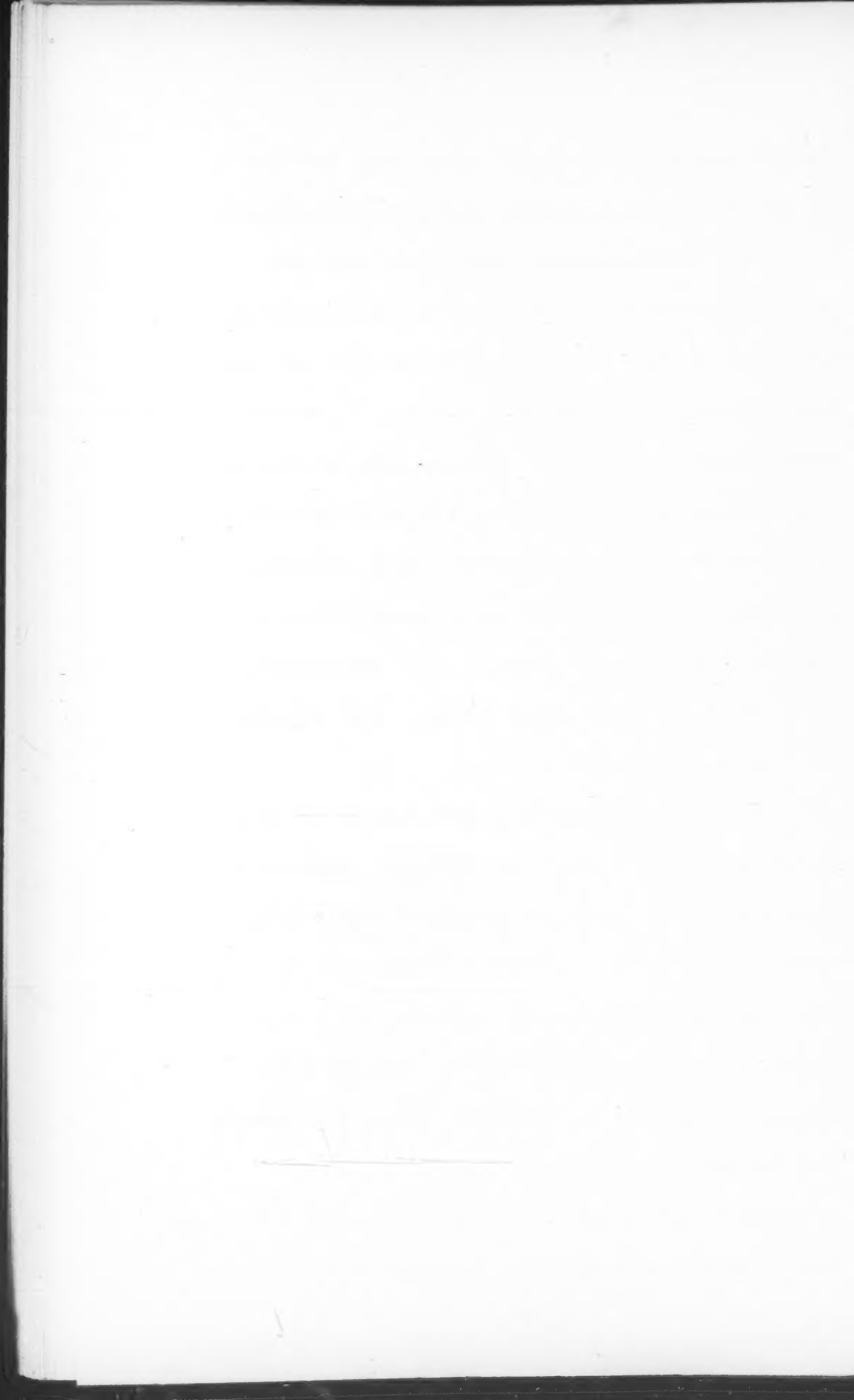
19. Each defendant is sued individually and in his official capacity.



Declaratory relief and equitable relief is sought against each and all defendants.

20. Defendants have been and are presently acting under color of authority and law of the State of Ohio. All of the defendants were, at all times herein mentioned, engaged in the adjudication of controversies and/or the administration of justice in the State of Ohio, through procedural rules, and more particularly in the application and/or the interpretation of Appellate Rule 12(A), see Exhibit "B" attached hereto.

21. Defendant Supreme Court of Ohio, defendant Chief Justice and six defendant Justices, exercised enforcement authority, hereinafter complained of, pursuant to its inherent authority and state statutory law (ORC 2503.40) beyond that of adjudicating complaints filed by others and beyond the normal authority of enforcement employed by said defendant Court and its members. A copy of



ORC 2503.40 is marked Exhibit "C",  
attached hereto and made a part hereof.

#### IV. FACTUAL ALLEGATIONS

22. On May 12, 1982, in a writing entitled "Lavaun Chetister, Plaintiff, vs. James G. Chetister, Defendant, plaintiff filed a civil suit in the Common Pleas Court of Lucas County, Ohio, alleging fraud as her cause of action.

23. On August 3, 1983, plaintiff's action for fraud was tried to a jury and, at the close of plaintiff's case in chief, the trial court dismissed the jury and directed a verdict for the defendant, James Chetister, and then dictated into the record the court's three reasons for granting the directed verdict, pursuant to Ohio Civil Rule 50(E), Exhibit "D" attached hereto.

24. Plaintiff shows that the Official Staff Note accompanying Civil Rule 50(E) notes that the purpose of the requirement of a written basis for decision of the



trial court's directed verdict "is obvious: the court's ruling substitutes for a function of the jury; must be set forth clearly", and, further, the significant purpose of Civil Rule 50(E) is to enable a party to challenge the trial court's ruling on appeal.

25. Plaintiff is advised, believes and so alleges that the trial court's directed verdict was contrary to law.

26. Plaintiff alleges that she attempted to petition her state government for a redress of her grievances, a directed verdict contrary to law, by filing a timely notice of appeal ( an appeal as of right granted by Ohio Revised Code 2505.03) to defendant Court of Appeals, a copy of ORC 2505.03 is attached hereto and marked Exhibit "E".

27. Plaintiff shows that said defendant, in a "Decision And Journal Entry" dated February 3, 1984, a copy of which is attached hereto and marked





Exhibit "F" and made a part hereof, has declared that the trial court's directed verdict was not contrary to law.

28. Plaintiff alleges that said defendant court of appeals had before it a transcript of the entire proceedings below and briefs of the legal issues submitted by both parties to the fraud action.

29. Plaintiff alleges and shows that said defendant court of appeals grounded its decision upon an issue not briefed by the parties nor raised by the trial court pursuant to Rule 50(E), specifically, "(T)he record in this case reveals that appellant failed to present any evidence as to any of the elements noted in Lipman, supra." (From Exhibit "F", p. 2, lines 8, 9.)

30. Exhibit "F" shows that said decision was the declaration of Andy Douglas, Peter M. Handwork, and Alice Robie Resnick, J.J., defendants herein.

31. Plaintiff alleges that said



decision shows on its face that said defendants grounded their decision upon an issue not briefed nor raised by the trial court and without first giving the parties notice of their intention to do so and an opportunity to brief that issue.

32. Plaintiff further alleges that said defendants in fact did not give the parties notice of their intention to ground their decision upon an issue not briefed by the parties nor raised by the trial court and without first giving the parties an opportunity to brief that issue, under App. R. 12(A).

33. Defendant Supreme Court of Ohio has from time to time issued rulings on and interpretations of App. R. 12(A), and in C. Miller Chevrolet vs. Willoughby Hills (1974), 38 Ohio St. 2d 298, 313 N.E. 2d 400, which purports to be an authoritative declaration of said procedural rule, stated as follows:

"In fairness to the parties, a Court



of Appeals which contemplates a decision upon an issue not briefed should, as the Court of Appeals in this case did, give the parties notice of its intention and an opportunity to brief the issue." (See Exhibit "G", attached hereto.)

34. The purpose of App. R. 12(A), as interpreted by defendand (sic) Supreme Court, is to prevent the abridgment of lawful and constitutionally protected rights of plaintiff under the Due Process Clause and the Equal Protection Clause of the Fourteenth Amendment for a meaningful opportunity appropriate to the nature of her case to petition her state government for a redress of her grievances ( a directed verdict of the trial court contrary to law).

35. Plaintiff is advised, believes and so alleges that the liberty interest of hers that is protected by the Due Process Clause is the liberty interest of petitioning for a redress of grievances found in the First Amendment and further granted to her by the State of Ohio in



ORC 2505.03, an appeal as of right  
(Exhibit "E").

36. Plaintiff was, and presently is, adversely affected by said defendant's decision and declaration dated February 3, 1984, by reason of the failure of defendant Supreme Court of Ohio to grant plaintiff leave to appeal, see Exhibits "H" and "I" attached hereto and made a part hereof.

37. Upon information and belief, said declarations not to grant plaintiff leave to appeal under ORC 2505.29 (Exhibit "A") was the declaration and decision of defendant Frank D. Celebrezze, Chief Justice, and defendants William B. Brown, A. William Sweeney, Ralph S. Locher, Robert E. Holmes, Clifford F. Brown, and James P. Celebrezze, J.J., of defendant Supreme Court of Ohio.

38. Plaintiff alleges that said defendants were put on notice that plaintiff's case involved "questions under





the constitution of the United States"  
(ORC 2505.29, Exhibit "A") in a certain  
writing filed with said defendants by  
plaintiff, entitled "MEMORANDUM in  
SUPPORT OF CLAIMED JURISDICTION OF  
SUPREME COURT of Appellant Lavaun  
Chetister", dated February 24, 1984,  
which states at p. 5 under her argument,  
Exhibit "J" attached hereto:

"II. ARGUMENT:

"QUESTION: Why should Supreme Court  
of Ohio take jurisdiction  
in Chetister?

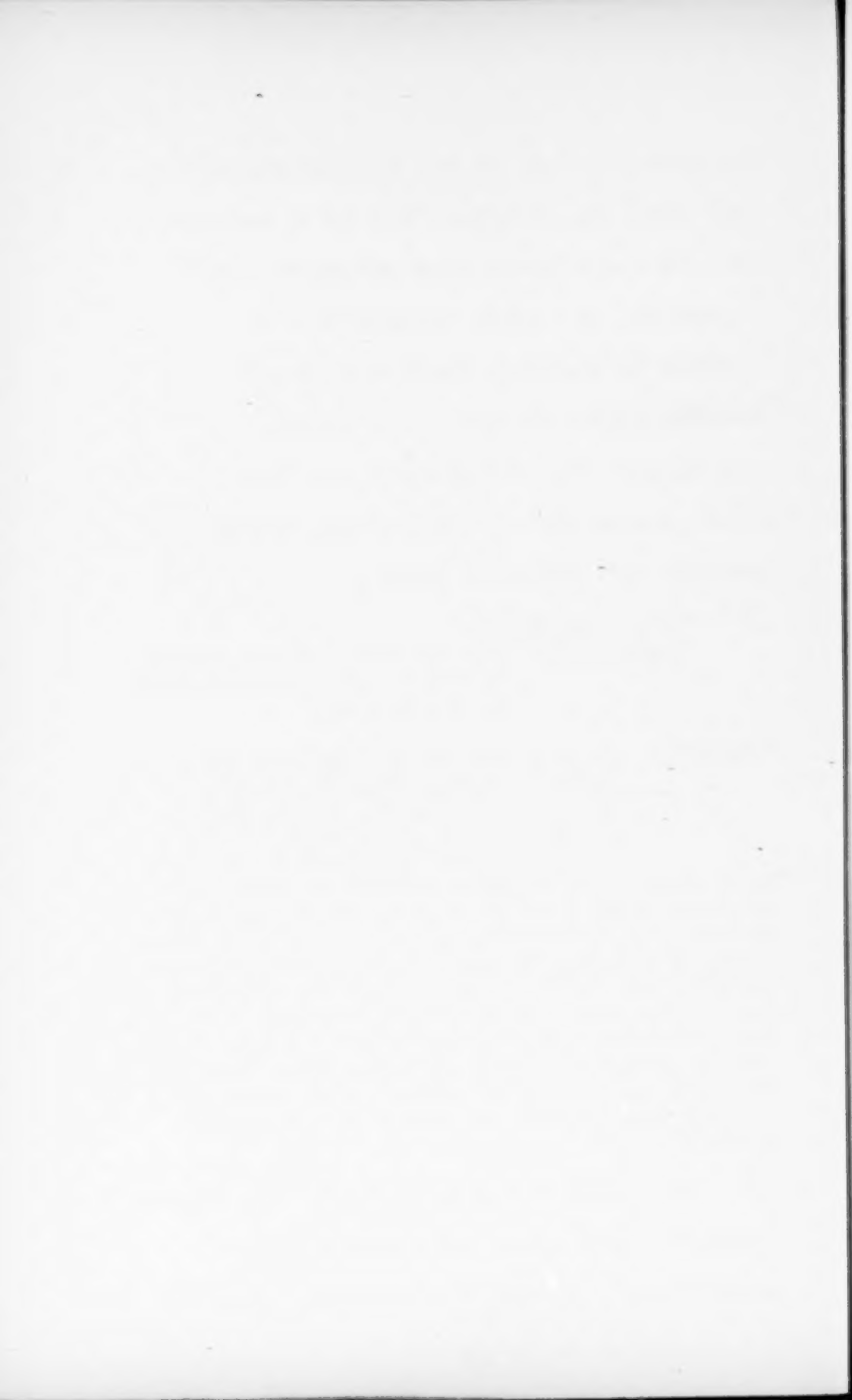
"ANSWER: To prevent legal larceny of the  
jury by lower courts in Ohio.

To construe AppR. 12(A) and  
harmonize it with CivR. 50(E).

(Emphasis in original writing).

"Did Court of Appeals for Sixth District  
destroy appellant's right, as a practical  
matter, to effectively challenge the trial  
court's ruling on appeal (the significant  
purpose of CivR. 50(E), when it sustained  
the trial court's directed verdict for a  
reason other than those given by the trial  
court, without first passing upon the  
reasons of the trial court that were  
argued separately by appellant in her  
brief?"

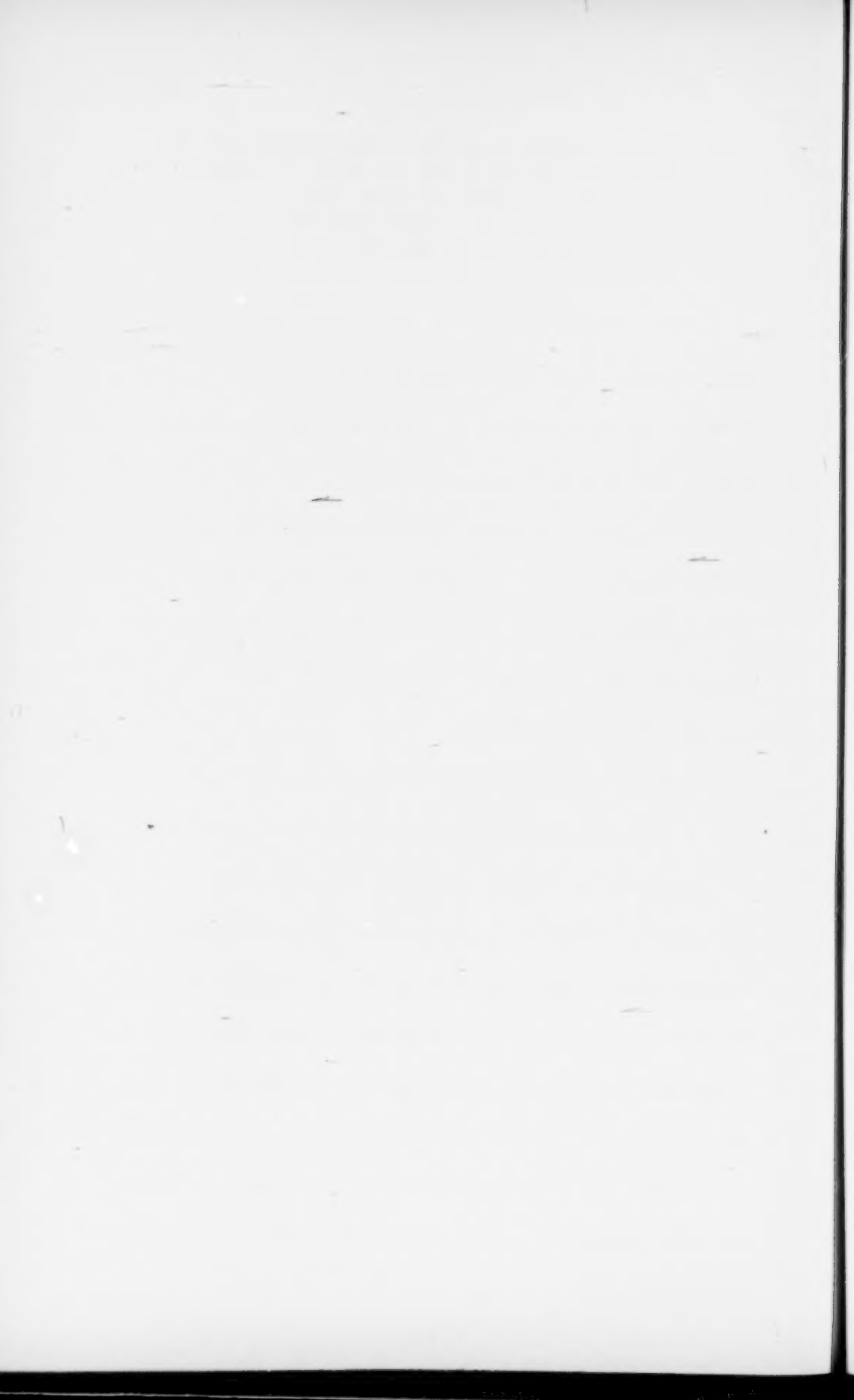
39. Ohio statute 2505.29, "No appeal  
filed without leave of supreme court;  
exceptions", states in pertinent part:



"Such leave need not be obtained to file an appeal as to the judgment or final order of the court of appeals, or a judge thereof, in cases involving questions under the constitution of the United States,\*\*\*."

40. Plaintiff is advised, believes and so alleges that said defendants' denial of plaintiff's appeal as or right under the exception provision of Ohio statute 2505.29 denied to plaintiff her liberty interest to petition her state government for a redress of her grievances without due process required by the Fourteenth Amendment.

41. Plaintiff is advised, believes and so alleges that the liberty interest of hers that is protected by the Due Process Clause is the liberty interest of petitioning for redress of grievances found in the First Amendment and further granted to her by the State of Ohio in ORC 2505.29 under its exception provision, in light of the particular circumstances of her case in said defendant Court of Appeals.



42. Plaintiff is further advised, believes and so alleges that she was denied another liberty interest to petition her state government for a redress of her grievance granted to her by the State of Ohio in ORC 2505.03 without due process of law, said denial of that liberty interest was caused directly by defendant Court of Appeals and defendants Douglas, Handwork and Resnick, J.J., of said court.

43. Said denial of plaintiff's constitutional rights under Fourteenth Amendment by defendants on two separate occasions was brought to the attention of defendant Supreme Court of Ohio in a writing entitled "MOTION FOR REHEARING", timely submitted by plaintiff (see Exhibit "K" attached hereto", and denied by said defendant on May 9, 1984, (Exhibit "I").

44. Said defendant Supreme Court of Ohio and its seven defendant members herein named have statutory authority "to en-



force the administration of justice", granted to it by ORC 2503.40 (Exhibit "C"), that goes beyond the normal authority of enforcement under its inherent authority and Section 2, Article IV of the Ohio Constitution, see Exhibit "L" attached hereto.

45. Said statutory authority "to enforce the administration of justice" including, but not limited to the enforcement of the procedural rules enacted by said defendant, and particularly Appellate Rule 12(A), was brought to the attention of defendant Supreme Court in said motion for rehearing at p. 3, a copy is attached hereto, marked Exhibit "M", and reads in pertinent part:

"There is no policeman running around the state of Ohio protecting appellants in each appellate district from unequal treatment under the law. Appellant can only look to the Supreme Court of Ohio, and has a right to, as procedural law in the Sixth District should be as equally applied as in the Fifth or Eighth or Eleventh District."





46. Plaintiff takes the position that operationally, there is no difference between a law enforcement official (policeman) confronted with a criminal in action on the street and defendant Supreme Court confronted with constitutional violations of procedural law in the state appellate process, under its enforcement authority granted by Ohio statute 2503.40.

47. Plaintiff is advised, believes and so alleges that, in light of the particular circumstances of the case heretofore alleged, defendant Supreme Court of Ohio and its seven defendant member-officials showed a deliberate indifference to the risk of causing harm to plaintiff by not using its independent state enforcement authority under ORC 2503.40 to apprehend and/or correct the violators of plaintiff's constitutional rights under the Fourteenth Amendment.

#### IV. CAUSES OF ACTIONS

##### A. Unconstitutionality



48. State statutes and state procedural rules as applied to plaintiff violate the Constitution of the United States as follows:

COUNT I

49. Ohio statute 2505.03 and Ohio Appellate Rule 12(A) as applied to plaintiff by defendant Court of Appeal and defendants Douglas, Handwork and Resnick, J.J., violate the First Amendment to the United States Constitution in that plaintiff's right to petition the government for a redress of grievances was abridged.

50. Ohio statute 2505.03 and Ohio Appellate Rule 12(A) as applied to plaintiff by said defendants violate the Due Process Clause of the Fourteenth Amendment in that plaintiff's liberty interest, to seek redress of her grievances from the government of Ohio, was taken away from plaintiff by said defendants without a meaningful opportunity appropriate to the nature of her case to



petition said government.

COUNT II

51. Ohio statute 2505.29 (no appeal filed without leave of supreme court; exceptions) as applied to plaintiff by defendant Supreme Court of Ohio, defendant Frank D. Celebrezze, Chief Justice, and William B. Brown, A. William Sweeney, Ralph S. Locher, Robert E. Holmes, Clifford F. Brown and James P. Celebrezze, J.J., violates the First Amendment to the United States Constitution, applicable to the states by the Fourteenth Amendment, in that plaintiff's right to petition the government for a redress of grievances was abridged.

52. Said Ohio statute 2505.29 as applied to plaintiff by said defendants violates the Due Process Clause of the Fourteenth Amendment in that plaintiff's liberty interest in seeking redress of her grievances from the State of Ohio, granted to her under the exception pro-



vision of said statute, was taken away from plaintiff by said defendants without any due process of law (no hearing of any kind by said defendants).

### COUNT III

53. Ohio's enforcement's statute, ORC 2503.40. as applied to plaintiff by said defendants mentioned by name in Count II, violates the Due process Clause of the Fourteenth Amendment in that said defendants showed a deliberate indifference to the risk of causing harm to plaintiff by not apprehending or correcting the violators of plaintiff's constitutional rights under the First and Fourteenth Amendments.

#### B. Equity

54. Accordingly, unless and until the declaratory relief demanded in this complaint is granted, plaintiff will suffer the most serious injury in that she will be deterred, hindered and prevented from exercising fully her right to seek





relief from judgment or order under Civil Rule 60(B)(4) and/or Rule 60(B)(5) in the aforementioned case entitled Chetister vs. Chetister, Case No. 82-1161, Common Pleas Court of Lucas County, Ohio.

55. In view of defendants' actual enforcement of Ohio statutes 2505.03, 2505.29, 2503.40, and Appellate Rule 12(A), and plaintiff's contention that said enforcements are null and void, there is an actual controversy within the jurisdiction of this Court. Declaratory relief will effectively adjudicate the rights of the parties herein.

56. No state prosecution between the parties herein is pending and plaintiff has demonstrated a genuine threat to her rights under Civil Rule 60(B) in the event defendants' enforcement of state statutes and rules is not declared null and void, accordingly, federal declaratory relief is not precluded under 28 U.S.C.A. §§ 2201, 2202, even though federal interest



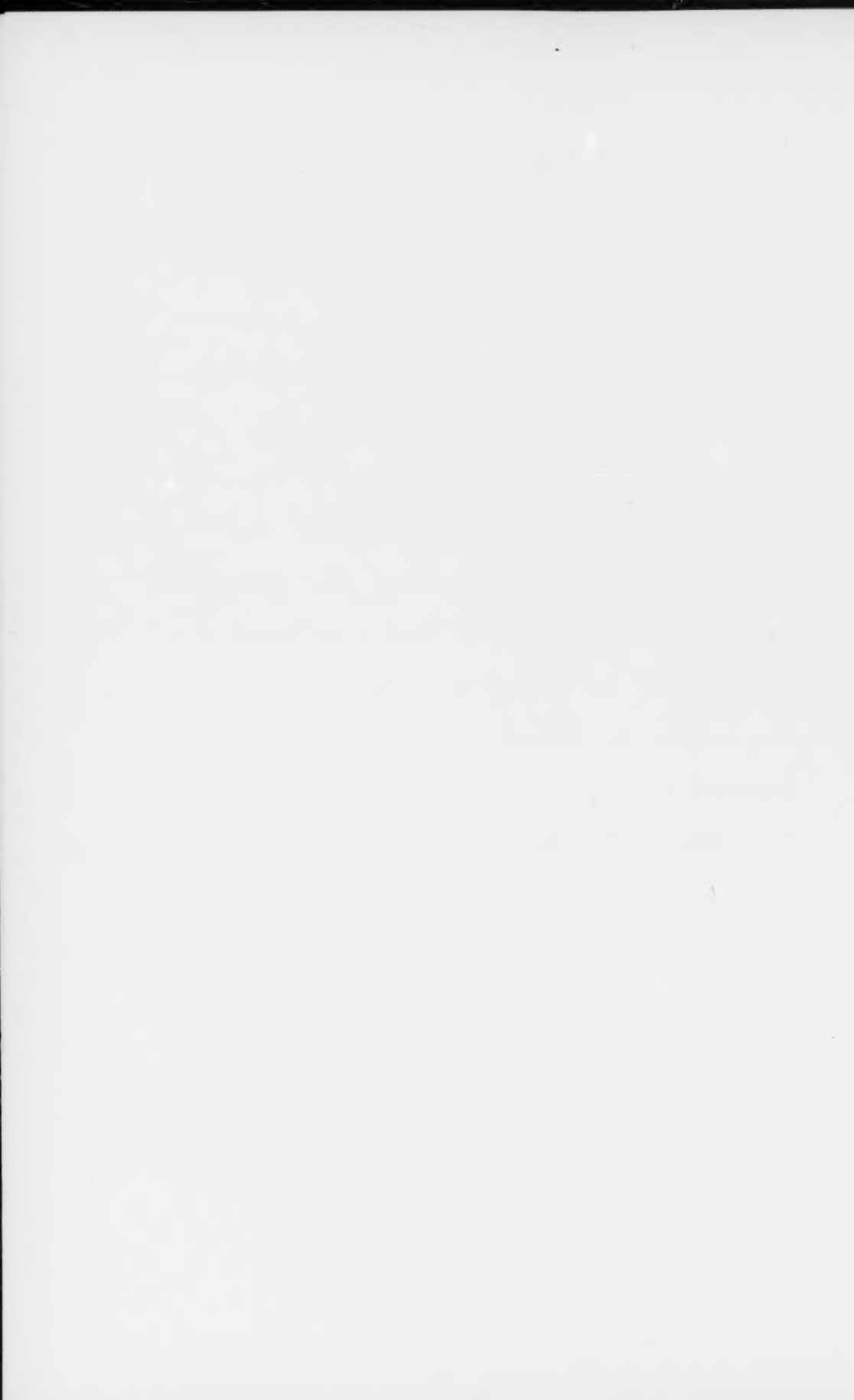
may be greater when a state statute is attacked on its face, since a solitary individual who suffers a deprivation of his constitutional rights is no less deserving of redress than one who suffers together with others.

57. The plaintiff has been required to employ counsel at substantial personal expenses seeking to prevent violations of her constitutional and Civil Rights, all as alleged hereinabove to her special damage in an amount not yet finally determinable.

#### V. PRAYER FOR RELIEF

WHEREFORE, plaintiff prays that the Court quickly take all steps necessary to hear this action at the earliest practicable date and upon such hearing to:

A. Issue a declaratory judgment declaring that Ohio statutes 2505.03, 2505.29, 2503.40 and Ohio Appellate Rule 12(A), as applied to plaintiff are null and void as violative of the



Constitution of the United States.

B. Allow plaintiff the costs herein and her reasonable attorney fees under the Civil Rights Attorney's Fees Awards Act (42 U.S.C.A. § 1988).

---

Walton H. Donnell  
Attorney For Plaintiff  
139 E. Court Street  
P.O. Box 733  
Bowling Green, OH 43402  
Telephone: (419) 352-2616